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Philip Asherman, Ron Ballschmiede and
Westley Stockton

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE CHICAGO BRIDGE & IRON)	CASE NO. 1:17-CV-1580 Hon. Lorna Schofield
COMPANY N.V. SECURITIES)	
LITIGATION)	
)	

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS'
MOTION IN LIMINE NO. 6**

Defendants Chicago Bridge & Iron Co. N.V. ("CB&I"), Philip K. Asherman, Ronald A. Ballschmiede, and Westley S. Stockton submit this Memorandum of Law in support of their Motion *in Limine* No. 6 to preclude any mention of, or reference to the arbitration entitled *Refineria de Cartagena S.A. v. Chicago Bridge & Iron Company N.V., et al.*; the related Reficar project in Colombia; any criminal or quasi-criminal charges or allegations related to the Reficar project; or the cases *Edwards v. McDermott International, Inc., et al.*, No. 4:18-cv-04330 (S.D. Tex.); *The Public Employees Retirement System of Mississippi v. McDermott International, Inc., et al.*, No. 4:19-cv-00135 (S.D. Tex.); *Kingstown Capital Management, L.P., et al. v. David Dickson, Stuart*

Spence, and McDermott International, Inc., 4:20-cv-2880 (S.D. Tex.); or the securities litigation against, or the SEC and federal grand jury investigations into, McDermott International, Inc.

The issues in those other matters are different from and irrelevant to the issues in this case. The *Refineria de Cartagena* matter involves a refinery construction project in Colombia completed by CB&I in 2015. Related to that project, the Colombian government made accusations against Defendant Asherman related to his signing of the contract for that project. None of Plaintiffs' claims here relate to that project.

The *Edwards* case concerns allegations arising during a class period that spans January 24, 2018 to October 30, 2018 and, thus, relates to events that postdated the current class period by more than two years. The *Public Employees* case, which was consolidated with the *Edwards* case, likewise concerns events that postdated the current class period by almost three years. The *Kingstown* case is an opt-out action from the *Edwards* case and concerns events that postdated the current class period here.

Finally, McDermott has disclosed that (1) on November 15, 2018, a federal securities fraud complaint was filed in the Southern District of Texas against McDermott, its former CEO David Dickson, and its former CFO Stuart Spence seeking class action status on behalf of purchasers of McDermott common stock and alleging damages arising from allegedly false and misleading statements made during the January 24, 2018 to October 30, 2018 period; (2) on January 14, 2019, a related securities fraud complaint was filed against the same defendants (and was later amended to add CB&I and its former CEO Patrick Mullen) in the Southern District of Texas seeking class action status on behalf of McDermott common stockholders as of April 4, 2018 who had the right to vote on the McDermott–CB&I combination and alleging misrepresentations and omissions in the proxy statement used in connection with the combination; (3) by letter dated July 26, 2019, the

SEC notified McDermott that it is conducting an investigation related to disclosures McDermott made concerning the reporting of projected losses associated with the Cameron LNG project; and (4) by letter dated February 25, 2020, the office of the U.S. Attorney for the Southern District of Texas within the U.S. Department of Justice notified McDermott that a Federal Grand Jury is conducting a criminal investigation and requested various documents, including cost forecasts and other financial-related information, related to the Cameron LNG project.

None of these other matters involves issues that have any relevance to the claims in this case. None of these matters are relevant to the allegations or challenged statements in this lawsuit, and any such reference or mention would only serve to unfairly prejudice, confuse, and mislead the members of the jury. FED. R. EVID. 402, 403. They have no tendency to make the existence of any material fact more or less probable than it would be without the evidence, and mention of any of these other matters would prevent Defendants from receiving a fair trial. FED. R. EVID. 401, 402, & 403. And any mention of the Colombian government's accusations against Mr. Asherman would be inadmissible. FED. R. EVID. 403, 404.

Dated: December 13, 2021

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ David D. Sterling

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